

**BEFORE THE
ADMINISTRATIVE RULES COMMITTEE
OF THE
NORTH DAKOTA LEGISLATIVE COUNCIL**

**N.D. Admin. Code Chapters)
75-03-07.1, 75-03-08,)
75-03-09, 75-03-10, 75-03-11,)
and 75-03-11.1)
Early Childhood Services)
(Pages 203-293))**

**REPORT OF THE
DEPT. OF HUMAN SERVICES
December 12, 2012**

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For its report, the North Dakota Department of Human Services states:

1. The proposed amendments to N.D. Admin. Code chapters 75-03-07.1, 75-03-08, 75-03-09, 75-03-10, 75-03-11, and 75-03-11.1 are not related to statutory changes made by the Legislative Assembly.
2. These rules are not related to changes in a federal statute or regulation.
3. The Department of Human Services (Department) uses direct and electronic mail as the preferred ways of notifying interested persons of proposed rulemaking. The Department uses a basic mailing list for each rulemaking project that includes the county social service board directors, the regional human service centers, Legal Services offices in North Dakota, all persons who have asked to be on the basic list, and internal circulation within the Department. Additionally, the Department constructs relevant mailing lists for specific rulemaking. The Department also places public announcements in all county newspapers advising generally of the content of the rulemaking, of over 50 locations throughout the state

where the proposed rulemaking documents may be reviewed, and stating the location, date, and time of the public hearing.

The Department conducts public hearings on all substantive rule-making. Oral comments are recorded. Oral comments, as well as any written comments that have been received, are summarized and presented to the Department's executive director, together with any response to the comments that may seem appropriate and a re-drafted rule incorporating any changes occasioned by the comments.

4. A public hearing on the proposed rules was held in Bismarck on September 24, 2012. The record was held open until 5:00 p.m. on October 4, 2012, to allow written comments to be submitted. Many comments were received. The "Summary of Comments" is attached to this report.
5. The cost of giving public notice, holding a hearing, and the cost (not including staff time) of developing and adopting the rules was \$2,277.30.
6. The proposed rules amend chapters 75-03-07.1, 75-03-08, 75-03-09, 75-03-10, 75-03-11, and 75-03-11.1. The following specific changes were made:
 - Section 75-03-7.1-02. Section 75-03-7.1-02 is amended to require department-approved basic child care training.
 - Section 75-03-07.1-04. Section 75-03-07.1-04 is amended to include license and in-home registration in limitation of one provider or operator per residence and to require the emergency designee for a self-declarant to be at least 18 years of age and approved by the Department.

Section 75-03-07.1-06. Section 75-03-07.1-06 is amended to restructure the section and to correct a word usage error.

Section 75-03-08-05.1. Section 75-03-08-05.1 is repealed.

Section 75-03-08-09. Section 75-03-08-09 is amended to remove language that is redundant of statutory language.

Section 75-03-10-08. Section 75-03-10-08 is amended to clarify language.

Section 75-03-10-11.1. Section 75-03-10-11.1 is amended to address minimum qualifications for child care center supervisors.

Section 75-03-10-18. Section 75-03-10-18 is amended to address space requirements for cots, cribs, and portable cribs, to require that pathways between cots, cribs, and portable cribs contain no obstructions, and to address requirements for toilet facilities.

Section 75-03-11-19. Section 75-03-11-19 is amended to remove specific outdoor space requirement for preschools.

Section 75-03-11-20. Section 75-03-11-20 is amended to require the curriculum for preschools to include outdoor play.

Section 75-03-11.1-18. Section 75-03-11.1-18 is amended to require a health inspection when the program prepares meals and to address requirements for toilet facilities.

Sections 75-03-08-07, 75-03-09-07, 75-03-10-07, 75-03-11-07, and 75-03-11.1-07. Sections 75-03-08-07, 75-03-09-07, 75-03-10-07, 75-03-11-07, and 75-03-11.1-07 are being amended to include self-declaration and in-home registration in limitation of one provider or operator per residence.

Sections 75-03-07.1-08, 75-03-08-24, 75-03-09-24, and 75-03-10-24. Sections 75-03-07.1-08, 75-03-08-24, 75-03-09-24, and 75-03-

10-24 are amended to require a provider to obtain written parental permission for infants to sleep with blanket, pacifier, or security item. Sections 75-03-08-08.1, 75-03-08-19, 75-03-09-08, 75-03-10-09, 75-03-11-08, 75-03-11-09, and 75-03-11.1-08. Sections 75-03-08-08.1, 75-03-08-19, 75-03-09-08, 75-03-10-09, 75-03-11-08, 75-03-11-09, and 75-03-11.1-08 are amended to reorganize written policy requirements under one rule to make it easier for operators to understand what policies are required of them, and to add a requirement to obtain written parental permission for certain children to leave the child care facility unsupervised.

Sections 75-03-09-10, 75-03-10-10, 75-03-11-08.1, 75-03-11-08.2, and 75-03-11.1-08.1. Sections 75-03-09-10, 75-03-10-10, 75-03-11-08.1, 75-03-11-08.2, and 75-03-11.1-08.1 are amended to add more options to allow individuals to meet qualifications of group supervisor, center director, preschool director, preschool teacher, and school-age center director.

Sections 75-03-09-14 and 75-03-11-14. Sections 75-03-09-14 and 75-03-11-14 are amended to address requirements for toilet facilities. Sections 75-03-09-24 and 75-03-10-24. Sections 75-03-09-24 and 75-03-10-24 are amended to include additional exemptions for programs which only serve drop-in children.

Sections 75-03-08-28, 75-03-09-28, 75-03-10-28, 75-03-11-28, and 75-03-11.1-28. Sections 75-03-08-28, 75-03-09-28, 75-03-10-28, 75-03-11-28, and 75-03-11.1-28 are amended to restructure the sections.

Sections 75-03-07.1-10, 75-03-08-29, 75-03-09-29, 75-03-10-29, 75-03-11-29, and 75-03-11.1-29. Sections 75-03-07.1-10, 75-03-08-29, 75-03-09-29, 75-03-10-29, 75-03-11-29, and 75-03-11.1-

29 are amended to add North Dakota Century Code chapter 50-11.1 to the provisions requiring corrections of violations and to make minor changes to ensure these sections are consistent with each other.

Sections 75-03-07.1-11, 75-03-08-30, 75-03-09-30, 75-03-10-30, 75-03-11-30, and 75-03-11.1-30. Sections 75-03-07.1-11, 75-03-08-30, 75-03-09-30, 75-03-10-30, 75-03-11-30, and 75-03-11.1-30 are amended to add North Dakota Century Code chapter 50-11.1 to the provisions regarding fiscal sanctions and to make minor changes to ensure these sections are consistent with each other.

7. No written requests for regulatory analysis have been filed by the Governor or by any agency. The proposed amendments are not expected to have an impact on the regulated community in excess of \$50,000. A regulatory analysis was prepared and is attached to this report.
8. A small entity regulatory analysis and small entity economic impact statement were prepared and are attached to this report.
9. These rules do have a fiscal impact of not more than \$10,000 which is part of the Department's budget.
10. A constitutional takings assessment was prepared and is attached to this report.
11. These rules were not adopted as emergency (interim final) rules.

Prepared by:

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